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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,722	05/08/2001	Theodore F. Rabenko	2875.0970002	3641
26111 7590 08/19/2009 STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				
EXAMINER				
SHAND, ROBERTA A				
ART UNIT		PAPER NUMBER		
2416				
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08/19/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/851,722

**Applicant(s)**

RABENKO ET AL.

**Examiner**

Roberta A. Shand

**Art Unit**

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No./Mail Date: \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 21-24, 26, 27, 29-34, 35-37 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Trachewsky (U.S. 2001/0055311 A1).

3. Regarding claims 21 and 31, Trachewsky teaches (fig. 70) a communications gateway (2018), configured to receive a packet payload, the packet payload being formatted according to a first communications protocol, comprising: a Media Access Controller/Physical Layer Interface (fig. 4a) configured to determine whether the packet payload is one of a voice packet or a data packet and to translate the packet payload from the first communications protocol to a second communications protocol (fig. 4a, interface between MAC/PHY, 320 and 330 and bus interface, 310); a proxy gateway configured to determine whether the packet payload is to be formatted according to a third communications protocol or a fourth communications protocol when the packet payload is of the voice packet (paragraphs 361-362); a controller configured to translate the packet payload from the second communications protocol to the third communications protocol when the packet payload is of the voice packet that is to be formatted according to the third communications protocol, or is of the data packet (paragraph 362); and a processor configured to translate the packet payload from the second communications protocol to

the fourth communications protocol when the packet payload is of the voice packet that is to be formatted according to the fourth communications protocol (paragraph 394). Trachewsky's home gateway 2018 provides a conversion between digital and analog voice. The home gateway (2018) interfaces DOCSIS (fig. 70, 2021) and HPNA (2014) allowing digitize voice to be converted to analog in order to incorporate a connection to conventions POTS telephones.

4. Regarding claims 22 and 32, Trachewsky teaches (fig. 70) the first communications protocol is a Data Over Cable Service Interface Specification (2021) communications protocol.

5. Regarding claims 23 and 33, Trachewsky teaches (fig. 70) the third communications protocol is a Home Phoneline Network Alliance (2015) communications protocol.

6. Regarding claim 24 and 34, Trachewsky teaches (fig. 70) the fourth communications protocol is a baseband protocol capable of delivering Plain Old Telephone Service to one or more analog telephones (2016).

7. Regarding claims 26 and 37, Trachewsky teaches (fig. 6) the proxy gateway determines whether the packet payload is to be formatted according to the third communications protocol or the fourth communications protocol based upon a destination address (628) within the packet payload.

8. Regarding claim 27, Trachewsky teaches (fig. 4a) the second communications protocol is an internal communications protocol (bus interface), the internal communications protocol being independent of the first communications protocol, the third communications protocol, and the fourth communications protocol (paragraph 116).

9. Regarding claims 29 and 39, Trachewsky teaches (paragraphs 361-362) the controller formats the packet payload according to the third communications protocol to translate the packet payload from the second communications protocol to the third communications protocol.

10. Regarding claim 30, Trachewsky teaches (paragraphs 361-362) the proxy gateway comprises: a voice and data processor configured to determine whether the packet payload is to be formatted according to the third communications protocol or the fourth communications protocol.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 25, 28, 35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trachewsky in view of Thi (U.S. 6912209 B1).

13. Regarding claims 25 and 35, as mentioned above Trachewsky teaches all of the limitations of claims 21 and 31.

14. Trachewsky does not teach the proxy gateway determines the packet payload is to be formatted according to the third communications protocol when a first device that is configured to communicate using the third communications protocol goes off hook and the packet payload is to be formatted according to the fourth communications protocol when a second device that is configured to communicate using the fourth communications protocol goes off hook.

15. Thi teaches (col. 42, lines 35-63) on/off hook, flash hook and potentially pulse dial detection. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Trachewsky to include Thi's on/off hook detection to properly process the packet.

16. Regarding claims 28 and 38, Thi teaches (fig. 30) the processor decompresses and depacketizes (1084) the packet payload then formats the packet payload according to the fourth communications protocol to translate the packet payload from the second communications protocol to the fourth communications protocol .

#### ***Response to Arguments***

17. Applicant's arguments with respect to claims 21-39 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberta A. Shand whose telephone number is (571)272-3161. The examiner can normally be reached on M-F 9:00am-5:30pm.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Roberta A. Shand  
/R. A. S./  
Examiner, Art Unit 2416

/William Trost/  
Supervisory Patent Examiner, Art Unit 2416